

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF VIRGINIA
Charlottesville Division

CLERK'S OFFICE U.S. DIST. COURT
AT CHARLOTTESVILLE, VA
FILED

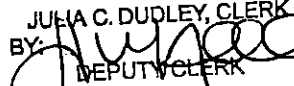
SEP 20 2021

Elizabeth Sines, et al
Plaintiffs

v

Jason Kessler, et al
Defendants

Case No: 3:17-cv-072-NKM

JULIA C. DUDLEY, CLERK
BY:  DEPUTY CLERK

MOTION FOR DISCOVERY SANCTIONS AGAINST PLAINTIFFS FOR
FAILURE TO TIMELY DISCLOSE THE "DISCORD PRODUCTION" PURSUANT
TO FED.R.CIV.P. 37

Comes now the Defendant, Christopher Cantwell, and, he Moves this Court to Sanction all of the Plaintiffs Pursuant to Fed.R.Civ.P. 37 For Failure To Timely Disclose The "Discord Production" to himself and the other pro se Defendants, including Richard Spencer, Robert Ray, Vanguard America, and, Eliot Kline. In support, he states as follows:

- 1) Discovery in this matter closed April 30, 2021.
- 2) On September 3, 2021, Plaintiff's counsel Michael Bloch disclosed to Cantwell the existence of production by Discord (the "Discord production") as per the attached email. In his email, Bloc admits that he did not timely disclose this material to Cantwell or to any of the other pro se Defendants, timely move to modify the protective order he believes limited the circulation of this material so that it could be produced to Cantwell, or, even notice Cantwell of the existence of this material so that Cantwell could move to modify the protective order.
- 3) Further, while Cantwell has received notice of the existence of this

Discord Production, Cantwell has still not received the actual production. (However, Cantwell notes that he received a hard drive with unknown contents from a different attorney representing Defendants today which he has not yet been able to examine).

- 4) Fed.R.Civ.P. 37(a)-(c) provides for the sanction of parties who fail to make disclosures or who make disclosures that are evasive or incomplete. This disclosure came about as the result of discussions between Defendant Cantwell, the Court, and, Plaintiff's counsel on, August 20, 2021, and, Cantwell believes that suffices as a good faith effort to resolve this issue. The fact is that the Defendants' refusal to disclose this evidence which is central to their case prevented Cantwell from conducting meaningful discovery regarding the Discord production, and, thus, has prevented Cantwell from fully and fairly litigating issues surrounding this Discord production.
- 5) Because this material was not timely produced and Cantwell was not timely notified of its existence so that he could seek its production, Cantwell has been unable to conduct discovery regarding this material, and, it should be excluded from use as evidence in this matter pursuant to Fed.R.Civ.P. 37(c)(1).

Thus, for good cause shown, Cantwell moves this Court to sanction the Plaintiffs by excluding from use at trial any of the "Discord Production".

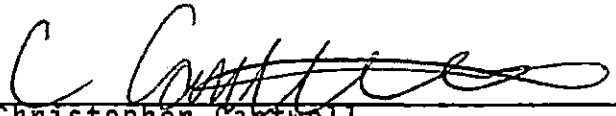
Respectfully Submitted,



Christopher Cantwell
USP-Marion
PO Box 1000
Marion, IL 62959

CERTIFICATE OF SERVICE

I hereby certify that this Motion for Discovery Sanctions was mailed to the Clerk of the Court, 1st Class Postage prepaid, for posting upon the ECF, to which all parties are subscribed, and, was handed to USP-Marion staff members Nathan Simpkins and/or Kathy Hill for electronic transmission to the Court, this 17th day of September, 2021.



Christopher Cartwell